RECENT IMPORTANT DECISIONS.

APPEARANCE—APPEAL FROM ACTION IN REM AS GENERAL APPEARANCE.—Application by plaintiff for a writ of mandamus to compel the defendant district judge to reinstate and proceed with the case stated below. The plaintiff had commenced suit by attachment in a justice court against a non-resident defendant. The only service was by publication of summons. Judgment was rendered against the defendant by default, and his property seized under the attachment was sold. Subsequently the defendant appeared specially and moved to have the judgment vacated for want of jurisdiction of the person. The defendant's motion was denied and he took a general appeal to the district court. The district court having erroneously discharged the attachment, dismissed the case for want of jurisdiction of the defendant's person. The statute provided that "all cases appealed to the district court shall be heard anew in said court." *Held,* the appeal constituted a general appearance, and mandamus should issue. *H. L. Griffin Co.* v. *Howell, Judge* (1911), — Utah —, 113 Pac. 326.

The decision in the principal case follows the general rule on this subject, *McCubrey* v. *Lankis,* 74 Minn. 302. When, as in the principal case, a general appeal is taken from a justice court judgment, the cause will ordinarily be tried anew upon its merits, *Gant* v. *Chi., etc. R. R. Co.,* 79 Mo. 502. Thus it becomes immaterial whether the court appealed from had jurisdiction of the person or not, *Foster* v. *Borne, et al.,* 63 Ohio St. 169. Also, an appeal to a court of review from a judgment void for want of jurisdiction over the person constitutes a general appearance, *Chesapeake etc. R. R. Co.* v. *Heath,* 87 Ky. 651, 10 Ky. L. Rep. 646, 9 S. W. 832. The appellant will be conclusively presumed to have notice of and therefore must follow all subsequent proceedings had in the cause or suffer for his default, *Louisville & N. R. Co.* v. *Chestnut & Bro.,* 115 Ky. 43. But it has been held that such a general appeal does not constitute a waiver of any defect of jurisdiction over the person existing at the time the judgment was rendered, and that such want or defect is ground for a reversal by the reviewing court, *Zimmerman* v. *Gerdes,* 106 Wis. 608.

BANKRUPTCY—SUIT BY TRUSTEE—RIGHT TO TRIAL BY JURY.—Suit was brought by a trustee in bankruptcy to recover the value of certain goods alleged to have been fraudulently transferred by the bankrupt, the defendant in the case, as executor, to himself and his wife individually. The case was noticed for trial upon the calendar for jury trials in the Supreme Court of New York, but was transferred to the Special Term and tried without a jury. The trustee in bankruptcy made demand for a jury but it was denied on the ground that the action was one in equity. Upon appeal on this ground to the New York Court of Appeals, *held,* that the plaintiff was entitled to a trial by jury. *Allen* v. *Gray* (1911), — N. Y. —, 25 Am. B. R. 423.

Under the Bankruptcy Act of 1898 the right to trial by jury arises in but